

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re	§	MDL No. 2492
	§	
	§	
NATIONAL COLLEGIATE ATHLETIC	§	Master Docket No. 1:13-cv-09116
ASSOCIATION STUDENT – ATHLETE	§	
CONCUSSION INJURY	§	This Document Relates to All Cases
LITIGATION, ET AL.	§	Judge John Z. Lee
	§	Magistrate Judge Geraldine Soat Brown

**MOTION OF PLAINTIFF WHITTIER TO SUPPLEMENT
THE RECORD PREVIOUSLY PRESENTED TO THE COURT**

COMES NOW Julius Whittier, putative class plaintiff in the above styled and numbered cause, and files this his Motion to Supplement the Record Previously Presented to the Court and in support thereof shows the Court the following.

On or about October 23, 2014, Plaintiff Julius Whittier filed his objection to the Plaintiffs Motion for Preliminary Approval of Class Settlement. (Doc. 94).

However, notwithstanding the filing of said objection, the Court's Memorandum Opinion and Order failed to reference Plaintiff Whittier's objection and opposition to the Settling Plaintiffs' Motion for Preliminary Approval of Class Settlement.

The Court's Memorandum Opinion and Order fails to identify Plaintiff Julius Whittier as an "Objector" of record in this matter.

By this Motion, Plaintiff Whittier is requesting that the record be supplemented to accurately reflect Plaintiff Whittier as an Objector of record to the Plaintiff's Motion for Preliminary Approval of Class Settlement.

Moreover, in addition to filing his objection, the undersigned counsel attended the Court's hearing on October 23, 2014, making Plaintiff Whittier's objection to the proposed Class Settlement known to the Court and part of the oral record of the hearing.

Additionally, in the Memorandum of Opinion and Order, the Court addresses its appointment of counsel for Nichols as Lead Objector and the Court's rejection of Nichols' argument and finding that the facts of this case do not support a nationwide class action. However, the Court's analysis failed to consider arguments raised in Plaintiff Whittier's objection to the preliminary settlement.

First, the Memorandum Opinion and Order did not reflect or reference the proposed class in Whittier's Complaint: "NCAA football players from 1960-2014 who never played in the NFL."

The NCAA Concussion Litigation is founded upon the research and science arising from football. The fact that the putative settlement class includes millions of Plaintiffs who never competed in contact sports contributes directly to the inadequacy of the settlement and the almost uniform recognition of the anticipated abysmal take rate for the medical monitoring class.

The Court's Memorandum Opinion and Order is identifying the contrast between the NFL Litigation and this case speaks to the inadequacy of the propose settlement class. When comparing the proposed settlement and class with the NFL Litigation there are stark contrasts, but by limiting the settlement class to football players from 1960-2014, you will substantially reduce the class size, and the number of institutions involved, and by limiting the class to those diagnosed with post-concussion syndrome injuries, further limiting the size of the class and diminishing the "stark contrast" between the NFL Litigation, and the NCAA Concussion Litigation.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff Julius Whittier prays that the Court supplement the record previously presented to the Court to reflect that he is an Objector in this case and that in his Original Class Complaint he has proposed a Plaintiff class limited to

NCAA football players who played between 1960 and 2014 who never played in the NFL, and for any and all other relief, both at law and in equity, to which he may be justly entitled.

Respectfully submitted,

By: /s/ Dwight E. Jefferson
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed electronically via CM/ECF, which caused notice to be sent to all counsel of record on this 2nd day of March, 2016.

By: /s/ Dwight E. Jefferson